

Maine Revised Statutes
Title 38: WATERS AND NAVIGATION
Chapter 3: PROTECTION AND IMPROVEMENT OF WATERS

§490-RR. FINANCIAL ASSURANCE

1. Duration of financial assurance. A permittee shall maintain financial assurance during mining operations until the department determines that all reclamation has been completed and during the post-closure monitoring period except that financial assurance must be reduced or released immediately upon termination of a mining permit under section 490-PP, subsection 2, paragraph A. The department may require financial assurance to remain in effect for as long as the mining operation and any associated waste material could create an unreasonable threat to public health and safety or the environment.

[2011, c. 653, §23 (NEW); 2011, c. 653, §33 (AFF) .]

2. Coverage of financial assurance. The financial assurance required under subsection 1 applies to all mining and reclamation operations that are subject to a mining permit and must be sufficient to cover the cost for the department to administer, and hire a 3rd party to implement, activities necessary for the investigation, monitoring, closure, treatment, remediation, reclamation, operation and maintenance under the environmental protection, reclamation and closure plan as well as other necessary environmental protection measures, including remediation of any contamination of the air, surface water or groundwater.

[2011, c. 653, §23 (NEW); 2011, c. 653, §33 (AFF) .]

3. Form of financial assurance. The financial assurance may consist of a surety bond, escrow, cash, certificate of deposit, trust, irrevocable letter of credit issued by a financial institution acceptable to the department, or other equivalent security, or combination thereof, as long as the department approves the financial assurance as proposed by the applicant. When determining the appropriate security to require, the department shall take into consideration the type and location of the mining operation and the type of security that is adequate to protect the State's financial interest. The financial assurance must be in a form that cannot be cancelled, withdrawn, revoked or otherwise reduced without the express written consent of the commissioner after a finding that the reduced amount is appropriate given the conditions related to the mining operation, including, but not limited to, the potential cost of long-term maintenance and monitoring, closure and any necessary response to episodic maintenance.

[2011, c. 653, §23 (NEW); 2011, c. 653, §33 (AFF) .]

4. Updates to financial assurance. A permittee shall provide to the department an annual statement of financial responsibility, and the department may require that the financial assurance be adjusted to ensure that the financial assurance is sufficient for the purposes of subsection 2.

[2011, c. 653, §23 (NEW); 2011, c. 653, §33 (AFF) .]

5. Failure to provide financial assurance. Failure to provide financial assurance under this section constitutes grounds for the department to order immediate suspension of mining activities pursuant to section 490-TT, including, but not limited to, the removal of metallic product from the mining area.

[2011, c. 653, §23 (NEW); 2011, c. 653, §33 (AFF) .]

SECTION HISTORY

2011, c. 653, §23 (NEW). 2011, c. 653, §33 (AFF).

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